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Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matters of	)	
	)	
Responsible Accounting Officer	)	AAD 92-65
Letter 20, Uniform Accounting for	)	
Postretirement Benefits Other	)	
Than Pensions in Part 32	)	
	)	
Amendments to Part 65, Interstate Rate	)	CC Docket No. 96-22
of Return Prescription Procedures and	)	
Methodologies, Subpart G, Rate Base	)	

### REPORT AND ORDER

**Adopted: February 19, 1997**

**Released: February 20, 1997**

By the Commission:

### I. INTRODUCTION

1. On March 7, 1996, the Commission released an Order<sup>1</sup> rescinding the rate base instructions issued by the Common Carrier Bureau (Bureau) in Responsible Accounting Officer Letter No. 20.<sup>2</sup> With that Order, we also issued a Notice of Proposed Rulemaking<sup>3</sup> that proposed amendments to Part 65, Subpart G to address the ratemaking treatment of postretirement benefits other than pensions (OPEB).<sup>4</sup> Nine parties filed comments and four parties filed reply comments on the *NPRM*.<sup>5</sup>

<sup>1</sup> In the Matters of Responsible Accounting Officer Letter 20, Uniform Accounting for Postretirement Benefits Other Than Pensions in Part 32, *Memorandum Opinion and Order (Order to Vacate)*; Amendments to Part 65, Interstate Rate of Return Prescription Procedures and Methodologies, Subpart G, Rate Base, (*NPRM*), 11 FCC Rcd 2957 (1996).

<sup>2</sup> Uniform Accounting for Postretirement Benefits Other Than Pensions in Part 32, 7 FCC Rcd 2872 (Com. Car. Bur. 1992 (*RAO 20*)).

<sup>3</sup> *See supra* n. 1.

<sup>4</sup> OPEB refers to all forms of benefits, other than retirement income, provided by an employer to retirees. Those costs typically consist of health and dental care benefits and life insurance premiums of retired employees.

<sup>5</sup> Comments were filed by Ameritech, AT&T Corporation (AT&T), the Bell Atlantic Telephone Companies (Bell Atlantic), BellSouth Corporation and BellSouth Telecommunication, Inc. (BellSouth), MCI Telecommunications Corporation (MCI), Pacific Bell (Pacific), the NYNEX Telephone Companies (NYNEX), Southwestern Bell Telephone Company (Southwestern), and US West Communications, Inc. (US West). Reply comments were filed

2. On April 8, 1996, MCI filed a Petition for Reconsideration (Petition) of the *Order to Vacate*. MCI requests that the Commission reconsider its decision to rescind the rate base instructions for OPEB set forth in *RAO 20*. Three parties filed oppositions and two parties filed reply comments.<sup>6</sup>

3. In this Order, we amend Part 65 of our rules to include OPEB in ratemaking and to remove all items recorded in Account 4310<sup>7</sup> that were derived from above-the-line expenses<sup>8</sup> from the interstate rate base. We also deny MCI's petition for reconsideration of our *Order to Vacate*.

## II. BACKGROUND

### A. SFAS-106 and OPEB

4. In December 1990, the Financial Accounting Standards Board<sup>9</sup> (FASB) adopted Statement of Financial Accounting Standards No. 106 (SFAS-106), *Employers' Accounting for Postretirement Benefits Other Than Pensions*. SFAS-106 established new financial accounting and reporting requirements for employers offering postretirement benefits other than pensions to employees. To be in conformance with generally accepted accounting principles (GAAP), companies were required to follow these new requirements for accounting periods beginning after December 15, 1992.<sup>10</sup>

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by AT&T, Bell Atlantic, MCI and Pacific.

<sup>6</sup> Oppositions were filed by Ameritech, Bell Atlantic, and US West. Reply comments were filed by MCI and Southwestern.

<sup>7</sup> Account 4310, Other long-term liabilities, records amounts accrued to provide such items as unfunded pensions, death benefits, deferred compensation and other long-term liabilities.

<sup>8</sup> For a carrier subject to rate-of-return regulation, an above-the-line expense is one that is considered as part of the carrier's regulated revenue requirement. For any carrier, an above-the-line expense is one that the carrier may seek to recover from subscribers to its regulated services.

<sup>9</sup> The FASB is the authoritative standard setting body for accounting practices that are used in the American business community.

<sup>10</sup> See Southwestern Bell, GTE Service Corporation, Notification of Intent To Adopt Statement Of Financial Accounting Standards No. 106, *Employers' Accounting for Postretirement Benefits Other Than Pensions*, Order, 6 FCC Rcd 7560 (Com. Car. Bur. 1991).

5. Before the adoption of SFAS-106, GAAP required companies to account for OPEB costs on a cash basis.<sup>11</sup> Under the cash basis of accounting, companies recognized the OPEB amounts actually paid on behalf of employees in the accounting period when the payments were made. SFAS-106 required companies to account for OPEB costs on an accrual basis, treating OPEB costs as a form of deferred compensation that employees earn during their working years. To comply with GAAP, companies had to recognize OPEB costs as expenses during the years the benefits are earned and to record a liability for benefit amounts owed to employees.

6. The change from cash-based to accrual accounting for OPEB requires each company to recognize on its books of account the amount of its OPEB obligation to retirees and to current employees that had accrued as of the date the company adopted SFAS-106. This obligation equals the amount that the company would have accrued on its books as of the effective date of the accounting change if it had been using the accrual method all along. This obligation is referred to as the "transitional benefit obligation." SFAS-106 permits companies either to charge their transitional benefit obligation to expense and record the full liability immediately, or to amortize the transitional benefit obligation and accrue the liabilities over the average remaining service periods of current employees.

7. Since 1985, the Commission has followed a policy of conforming regulatory accounting for carriers to GAAP, including new FASB standards, unless the principle or practice conflicts with the Commission's regulatory objectives.<sup>12</sup> In December 1991, the Bureau issued an Order authorizing telephone companies subject to our accounting rules to adopt SFAS-106-type accounting for OPEB costs, on or before January 1, 1993.<sup>13</sup> The Bureau declined, however, to allow carriers to adopt the FASB option of immediately recognizing transitional benefit obligations, because the amounts involved were so large that booking them as one-time expenses would have distorted the carriers' earnings during the affected period. Instead, the Bureau authorized the carriers to use the other SFAS-106 option of amortizing transitional benefit obligation expenses either over the average remaining service period of active plan participants or over a 20-year period.<sup>14</sup>

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<sup>11</sup> Cash basis accounting recognizes revenues and expenses in the period when cash is received or paid. Under the accrual basis of accounting, however, revenues are recognized when they are earned, regardless of when cash is received and expenses are recognized when they are incurred, regardless of when cash is paid.

<sup>12</sup> See Revision of the Uniform System of Accounts for Telephone Companies to Accommodate Generally Accepted Accounting Principles, *Report and Order*, 102 FCC 2d 964 (1985); 47 C.F.R. § 32.16.

<sup>13</sup> See Southwestern Bell, GTE Service Corporation, Notification of Intent To Adopt Statement of Financial Accounting Standards No. 106, Employers' Accounting for Postretirement Benefits Other Than Pensions, *Order*, 6 FCC Rcd 7560 (Com. Car. Bur. 1991) (*Adoption Order*).

<sup>14</sup> *Id.*

## B. *RAO 20* and *NPRM*

8. On May 4, 1992, the Bureau released *RAO 20* in order to specify the Part 32 accounts that should be used to record OPEB costs under SFAS-106. In addition to providing instructions to carriers on the Part 32 accounting treatment for OPEB costs, *RAO 20* directed the carriers to remove accrued OPEB liabilities from their interstate rate base and to include prepaid OPEB benefits in their interstate rate base.<sup>15</sup>

9. On June 3, 1992, the Ameritech Operating Companies and the Bell Atlantic Telephone Companies filed Applications for Review of *RAO 20*. Ameritech and Bell Atlantic claimed that the Bureau's instructions contradicted the Commission's accounting and rate base rules,<sup>16</sup> and that the Bureau therefore exceeded its delegated authority in issuing those instructions.

10. We addressed the Ameritech and Bell Atlantic applications for review in our March 7, 1996, *Order to Vacate* and *NPRM*. The *Order to Vacate* affirmed the accounting instructions set forth in *RAO 20*, but rescinded the ratemaking instructions on procedural grounds. The *NPRM* proposed amendments to Part 65 that would establish the proper ratemaking treatment for OPEB for all carriers required to follow Part 32 accounting and for all carriers required to follow Part 65 rules in calculating a rate of return. The *NPRM* also proposed to amend Part 65 so that all zero-cost sources of funds<sup>17</sup> are removed from the interstate rate base.

## III. COMMENTS AND DISCUSSION

### A. Notice of Proposed Rulemaking

#### 1. Ratemaking Treatment of Prepaid OPEB

11. In the *NPRM*, we proposed that prepaid OPEB recorded in Account 1410, Other noncurrent assets, should be included in the interstate rate base. We tentatively concluded that these prepayments were investor-supplied funds, and that they should be included in the rate base on which investors may earn a return.<sup>18</sup> Several incumbent local exchange carriers support our proposal.<sup>19</sup> They state that investors fund these prepayments and that these prepayments

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<sup>15</sup> *RAO 20*, *supra* n. 2 at 2872-73.

<sup>16</sup> The accounting rules are codified at 47 C.F.R. Part 32. The rate base rules, codified at 47 C.F.R. §§ 65.800-.830, list the Part 32 accounts that are to be included in and excluded from the rate base that telephone companies use to calculate their interstate revenue requirement. Generally, the interstate rate base consists of amounts that are invested in plant that is used and useful in the provision of interstate telecommunications services.

<sup>17</sup> Zero-cost sources of funds are funds provided to a carrier without cost to its investors.

<sup>18</sup> *NPRM*, *supra* n. 1 at para 30.

<sup>19</sup> Ameritech at 3; Pacific at 3; Southwestern at 4; and US West at 2.

produce returns that reduce the expenses that companies must accrue in future periods. In addition, Pacific and US West comment that all items recorded in Account 1410 should be included in the interstate rate base if we remove all items recorded in Account 4310, Other long-term liabilities, from the interstate rate base.<sup>20</sup>

12. We have decided not to adopt our proposal automatically to include prepaid OPEB in the interstate rate base. We find our current rules are adequate to determine what, if any, of the assets recorded in Account 1410 should be included in the rate base. Under these current rules, noncurrent assets recorded in Account 1410 are included in the rate base when a carrier makes a showing that these assets are "used and useful" in the provision of telecommunications services.<sup>21</sup> The used-and-useful standard denotes property dedicated to the efficient conduct of a utility's business, presently or within a reasonable period. That standard reflects the principles that owners of public utilities must receive an opportunity to be compensated for the use of their property in providing a public service and that ratepayers must not be forced to pay a return on investment that does not benefit them directly. Therefore, if a carrier can show that any of its assets recorded in Account 1410 (including prepaid OPEB) meet the used-and-useful standard, we will allow that asset to be included in the interstate rate base. This decision is consistent with our treatment of similar costs, such as prepaid pension costs, which we referenced in the *NPRM*.<sup>22</sup> A certain amount of prepaid pension costs are allowed in the rate base because these costs can earn a return that later reduces expenses. Thus, any prepaid OPEB costs that meet the used and useful standard will be allowed, similar to prepaid pension costs.

13. Pacific and US West propose that we allow the inclusion of all items recorded in Account 1410 in the rate base if we decide to remove all items recorded in Account 4310 from the rate base. As discussed below, we do not decide that all items recorded in Account 4310 are zero-cost sources of funds that require rate base adjustment. Therefore, we will not change the rules to allow the inclusion of all 1410 balances in the rate base.

## 2. Ratemaking Treatment of Other Long-term Liabilities

14. In the *NPRM*, we proposed to amend Section 65.830 to remove from the interstate rate base the interstate portion of all accrued liabilities recorded in Account 4310, Other long-term liabilities.<sup>23</sup> We noted that this would accord to all of the zero-cost funds recorded in

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<sup>20</sup> Pacific at 4; US West at 2; supported by MCI Reply at 5.

<sup>21</sup> 47 C.F.R. §65.820.

<sup>22</sup> *NPRM*, *supra* n.1 at paras. 30-31.

<sup>23</sup> *NPRM*, *supra* n. 1 at para. 32.

Account 4310, including accrued OPEB liabilities, the same rate base treatment currently accorded to accrued pension liabilities.<sup>24</sup>

15. The parties commenting on this issue expressed differing opinions as to whether we should remove OPEB costs and the other items recorded in Account 4310 from the interstate rate base. Those parties in favor of rate base removal state that OPEB and all zero-cost funds in Account 4310 should be removed from the rate base because investors have not provided this capital and therefore, are not entitled to receive a return on it.<sup>25</sup> NYNEX, while supporting the removal of all zero-cost funds, either through a direct rate base adjustment or by including the related expenses in a lead-lag study,<sup>26</sup> states that Account 4310 includes several items that are non-operating in nature and that these non-operating amounts should not be included in ratemaking determinations.<sup>27</sup> NYNEX also argues that a direct rate base adjustment is preferable to a lead-lag study for taking into account the economic impact of the differences between cost recognition and the corresponding payment of OPEB amounts.<sup>28</sup>

16. Parties opposing a rate base adjustment state that OPEB and other Account 4310 amounts are not ratepayer-supplied funds because these amounts were not factored into pre-price cap rates. They claim that only those items that have been included in rates should be removed from the rate base.<sup>29</sup> NYNEX and AT&T argue that carriers that have been earning a positive return on assets that are funded in part by the OPEB liabilities are in fact recovering their OPEB costs.<sup>30</sup>

17. We are not persuaded by the argument that the amounts recorded in Account 4310 are investor-supplied funds because they were not factored into pre-price cap rates or have not been given exogenous treatment. To the extent that carriers are earning a positive return on assets funded in part by the liabilities recorded in Account 4310, these carriers are recovering their OPEB costs.

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<sup>24</sup> *Id.*

<sup>25</sup> AT&T at 3-4; MCI at 4; NYNEX at 1-2; Southwestern at 4; AT&T Reply at 7.

<sup>26</sup> A lead-lag study measures cash inflows and outflows in relation to the time service is rendered. Revenue and expense items that are received or paid before service is rendered are considered "lead" items, and revenue and expense items that are received or paid after service is rendered are considered "lag" items.

<sup>27</sup> NYNEX at 5.

<sup>28</sup> *Id.* at 3; supported by AT&T Reply at 8.

<sup>29</sup> Ameritech at 2-3; Bell Atlantic at 1-4; Pacific at 3-4; Pacific Reply at 2.

<sup>30</sup> NYNEX at 4; AT&T Reply at 5.

18. We do, however, agree with NYNEX's statement that Account 4310 can contain amounts that are non-operating in nature, and that these non-operating amounts should not affect a carrier's rates. Therefore, we are modifying our proposal to ensure that only those zero-cost sources of funds that result from above-the-line expenses are removed from the rate base. Thus, only those liabilities recorded in Account 4310 that are derived from the expenses specified in Section 65.450(a) will be removed from the rate base.

19. In the NPRM, we noted that the Bureau in RAO 20 directed carriers to remove accrued OPEB liabilities recorded in Account 4310, Other long-term liabilities, from their rate bases on the basis that OPEB benefits are similar to pension benefits, which are deducted from the rate base pursuant to Part 65.<sup>31</sup> The Bureau concluded that accrued OPEB costs should receive similar rate base treatment. We believe the Bureau was correct in that conclusion. Moreover, in the NPRM, we noted that all accrued liabilities recorded in Account 4310 represent zero-cost sources of funds including accrued pension and OPEB liabilities. We therefore proposed to accord to all items recorded in Account 4310 the same treatment currently accorded to pensions.<sup>32</sup> After reviewing the comments in this proceeding, we conclude that, because the amounts recorded in Account 4310 are zero-cost sources of funds, rates should not provide a return on those amounts. Accordingly, we adopt our proposal except as modified in the preceding paragraph.

20. We decline to subject certain portions of Account 4310 to lead-lag studies. This approach would be more burdensome for carriers than a direct rate base adjustment because it would further complicate the already complex lead-lag study process. Instead, we find that a direct rate base adjustment for the zero-cost items in Account 4310 is the simplest way to achieve our objective of treating ratepayers fairly and giving them credit for providing zero-cost capital.

### 3. Deferral of Part 65 Revisions

21. In the NPRM, we requested comment on whether we should delay modifying Part 65. The rationale for this request was presented in the pleadings of several parties responding to Ameritech's and Bell Atlantic's applications for review of RAO 20. Those parties urged us to defer making any Part 65 changes until the completion of several pending investigations concerning the exogenous treatment of OPEB amounts.<sup>33</sup>

22. Pacific is the only party that asserts, in response to the NPRM, that we should delay amending Part 65.<sup>34</sup> AT&T, MCI and NYNEX, however, agree we should not delay

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<sup>31</sup> NPRM, *supra* n. 1 at para. 29.

<sup>32</sup> *Id.*

<sup>33</sup> NPRM, *supra* n. 1 at para 28.

<sup>34</sup> Pacific at 3.

because we severed the ties between the rate base and prices in 1990 when we adopted price cap regulation.<sup>35</sup> AT&T also states that any change to the Part 65 rules will affect the rate base on a prospective basis and will not affect the pending OPEB investigations because those investigations deal with past OPEB costs.<sup>36</sup> NYNEX argues that the rate base treatment of OPEB should not bear any relation to whether these costs are exogenous, and that since OPEB costs are recognized as regulated costs, the OPEB costs are being recovered by price cap carriers to the extent that each earns a profit.<sup>37</sup>

23. BellSouth, while not commenting directly on whether we should delay this proceeding, states that the Commission should avoid making piecemeal changes to the Part 65 rules. Instead, BellSouth argues that the Commission should initiate a comprehensive review designed to simplify the rate base rules and to eliminate costly regulatory requirements.<sup>38</sup>

24. Although in our *Order to Vacate* we rescinded the ratemaking guidance in *RAO 20* on procedural grounds, we did not disagree, however, with the Bureau's rationale for providing this guidance. Uniform ratemaking treatment for OPEB in Part 65 is necessary for carriers that remain subject to rate-of-return regulation, and for the Commission to monitor sharing obligations of carriers subject to price cap regulation. This need for uniformity will not be changed by the exogenous cost decision resulting from the ongoing OPEB investigations. Accordingly, we find no reason to delay amending Part 65 pending the results of the OPEB investigations.

## **B. MCI Petition for Reconsideration of the Order to Vacate**

### **1. Positions of the Parties**

25. In our *Order to Vacate*, we rescinded the rate base instructions contained in *RAO 20*. Our decision was based on our determination that the Bureau did not have the delegated authority to change the Part 65 rules in an RAO letter.<sup>39</sup> MCI asks us to reconsider our decision and to reinstate the rate base instructions related to OPEB.<sup>40</sup> MCI states that we have broad discretion in interpreting our rules and that a rule change is not needed to determine the

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<sup>35</sup> AT&T at 4; MCI at 6; NYNEX at 4.

<sup>36</sup> AT&T at 4; supported by MCI Reply at 6.

<sup>37</sup> NYNEX at 4.

<sup>38</sup> BellSouth at 2-4; supported by Pacific Reply at 2.

<sup>39</sup> *Order to Vacate*, *supra* n.1 at para. 25.

<sup>40</sup> MCI Petition at 2.



rate base treatment of OPEB.<sup>41</sup> MCI believes that because the rate base treatment of pensions was already established, and because pensions are similar to OPEB, we can apply the pension rate base rules to OPEB through an interpretation.<sup>42</sup> Southwestern states that our authority to interpret our rules does not include the right to change rules at will without notice and comment.<sup>43</sup>

26. The opposing parties state that we correctly concluded in the *Order to Vacate* that the Bureau has no delegated authority to modify the rate base provisions of Part 65.<sup>44</sup> The opposing parties also assert that it is unreasonable for MCI to conclude that we can interpret Section 65.830 of our rules as currently including the interstate portion of OPEB among those items that must be removed from the interstate rate base. The opposing parties state that the only item recorded in Account 4310, Other long-term liabilities, that should be removed from the rate base is the interstate portion of unfunded accrued pension costs.<sup>45</sup>

27. In reply, MCI states the oppositions failed to demonstrate that a rulemaking proceeding is required to change the rate base treatment of OPEB and that the oppositions failed to refute the principle that administrative agencies are afforded broad discretion in interpreting their rules.<sup>46</sup> MCI also argues that, because Section 65.830(a)(3) currently lists pension costs as a rate base adjustment and because pensions are similar to OPEB, it is not unreasonable to interpret this section to require the removal of OPEB costs.<sup>47</sup>

## 2. Discussion

28. We have reviewed MCI's Petition and find that it provides no basis on which to change our *Order to Vacate* decision rescinding the ratemaking guidance for OPEB contained in *RAO 20*. As we stated in the *Order to Vacate*, the Bureau did not have the delegated authority to amend the Part 65 rules. MCI's Petition does not refute this conclusion. We also are not persuaded by MCI's argument that the Commission can amend Part 65 through an interpretation without providing affected parties with any notice of or chance to comment on

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<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> Southwestern Reply at 2-3.

<sup>44</sup> Ameritech at 2; Bell Atlantic at 1; US West at 2; Southwestern Reply at 2-3.

<sup>45</sup> Ameritech at 2; Bell Atlantic at 1-2; US West at 3.

<sup>46</sup> MCI Reply at 2.

<sup>47</sup> *Id.* at 3.

the amendment.<sup>48</sup> Giving rate base recognition to OPEB in Part 65 would constitute a rule change for which proper notice and comment must be given. Accordingly, for the reasons stated above, we deny MCI's Petition.

#### IV. FINAL REGULATORY FLEXIBILITY ACT ANALYSIS

29. The Commission certified in the NPRM that the proposed rules would not have a significant economic impact on a substantial number of small entities.<sup>49</sup> No comments were received concerning the proposed certification. For the reasons stated below, we certify that the rules adopted herein will not have a significant economic impact on a substantial number of small entities. This certification conforms to the Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).<sup>50</sup>

30. The NPRM certified that no regulatory flexibility analysis was required because the entities affected by the proposed rules were either large corporations, affiliates of such corporations, or were dominant in their field of operations and therefore not small entities.<sup>51</sup> However, Part 65 applies to all carriers providing interstate services, some of which may be small entities.<sup>52</sup> Moreover, since the NPRM, we have clarified that although we still consider small incumbent LECs to be dominant in their field of operations, we will include such companies in our regulatory flexibility analyses.<sup>53</sup> Consequently, we cannot certify that there are not a substantial number of small entities affected by the rules adopted in this Report and Order.

31. Nonetheless, we still certify that no regulatory flexibility analysis is necessary here because we do not believe the rule adopted in this Order will have a significant economic impact on the small carriers which must comply with our accounting rules. The rule amended by this Order addresses the ratemaking treatment of certain long-term liabilities. The rule requires carriers to remove from their ratebase calculations zero-cost sources of funds recorded in Account 4310, Other long-term liabilities. As such, it simply modifies our ratemaking treatment but does not increase the carriers' recordkeeping burden nor require any changes to the carriers' accounting systems.

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<sup>48</sup> 5 U.S.C. §553.

<sup>49</sup> *NPRM*, *supra* n. 1 at para. 36.

<sup>50</sup> 5 U.S.C. §§ 601-611. SBREFA was enacted as Subtitle II of the Contract With America Advancement Act of 1996 (CWAAA), Pub. L. No. 104-121, 110 Stat. 847 (1996).

<sup>51</sup> *NPRM*, *supra* n. 1 at para 36.

<sup>52</sup> The SBA defines small telecommunications entities as those having fewer than 1,500 employees. 13 C.F.R. § 121.201 SIC Code 4813 (Telephone Communications, Except Radiotelephone).

<sup>53</sup> See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, *Report & Order*, ¶¶ 1328-30, CC Docket No. 96-98, FCC 96-325 (rel. Aug. 8, 1996).

32. We therefore certify pursuant to section 605(b) of the RFA that the rules adopted in this order will not have a significant economic impact on a substantial number of small entities. The Commission will publish this certification in the Federal Register, and will provide a copy of the certification to the Chief Counsel for Advocacy of the SBA.<sup>54</sup> The Commission will also include the certification in the report to Congress pursuant to the SBREFA.<sup>55</sup>

## V. ORDERING CLAUSES

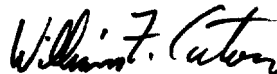
33. Accordingly, IT IS ORDERED, pursuant to Section 4(i) and 405 of the Communications Act of 1934, 47 U.S.C. §§154(i) and 405 that the Petition for Reconsideration filed April 8, 1996, by MCI Telecommunications Corporation IS DENIED.

34. IT IS FURTHER ORDERED, that pursuant to Sections 1, 4(i), 4(j), 201 through 205, 220, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 201 through 205, 220 and 403, Part 65, Subpart G of the Commission's Rules, 47 C.F.R. Part 65, Subpart G, IS AMENDED as shown in the Appendix below, effective 30 days after publication in the Federal Register.

35. IT IS FURTHER ORDERED, that the Secretary SHALL SERVE a copy of this Order on each state commission.

36. IT IS FURTHER ORDERED, that the Secretary shall send a copy of this Report and Order including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 605(b) of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. §§ 601 *et seq.* (1981).

FEDERAL COMMUNICATIONS COMMISSION

  
William F. Caton  
Acting Secretary

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<sup>54</sup> 5 U.S.C. § 605(b).

<sup>55</sup> 5 U.S.C. § 801(a)(1)(A).

## APPENDIX

Part 65, Interstate Rate of Return Prescription Procedures and Methodologies, Subpart G--Rate Base, is amended as follows:

1. The authority citation for Part 65 continues to read as follows:

**Authority:** 47 U.S.C. 151, 154, 201, 202, 203, 204, 205, 218, 219, 220, 403.

2. Section 65.830 paragraphs (a)(3) and (c) would be amended to read as follows:

**§ 65.830 Deducted Items**

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(a)(3) The interstate portion of other long-term liabilities (Account 4310) that were derived from the expenses specified in Section 65.450(a).

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(c) The interstate portion of other long-term liabilities (Account 4310) shall bear the same proportionate relationship as the interstate/intrastate expenses which gave rise to the liability.

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